

### REMARKS/ARGUMENTS

The Examiner is thanked for her examination and comments. The Examiner has stated that independent claims 3 and 6 are allowable as no reference alone or in combination discloses an apparatus or method for discriminating an optical recording medium comprising a light transmission layer formed on a recording layer constituted so as to be able to discriminate the number of the recording layers included in an optical recording medium.

Independent claims 1, 2, 4, and 5 have therefore been amended to contain the feature of determining the number of recording layers in an optical recording medium. As this feature is not disclosed in other references, claims 1, 2, 4, and 5 are now believed to be allowable.

#### Rejections Under 35 U.S.C. § 112

The Examiner rejected claims 2 and 5 under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 2 and 5 have been amended to clearly state that the light transmission layers are composed the first and second materials, respectively. Claims 2 and 5 are therefore believed to be allowable under 35 U.S.C. § 112.

#### New Claims

In addition to the above, Applicants have submitted new claims 7-9 to obtain coverage of additional embodiments. No new subject matter has been added. Although the language of these new claims may differ from the language of independent claim 1-6, the allowability of claims 7-9 will be apparent in view of the above remarks. Support for the new claims can be found in pages 18-23 of the specification and in figures 4-6.

New independent claim 7 claims a method for determining the type of an optical recording medium by placing a first and a second electrode in the vicinity of a light transmission layer of the optical recording medium. A signal is applied to the first electrode and a signal

representative of whether there is more than one recording layer in the optical recording medium is detected on the second electrode.

New dependent claim 8 claims the method of claim 7 wherein the detecting step includes detecting the number of layers of recording medium.

New independent claim 9 claims an apparatus for determining the type of an optical recording medium. The apparatus comprises a first electrode and a second electrode placed in the vicinity of a light transmission layer of the optical recording medium, means for applying a signal to the first electrode, and means for detecting a signal representative of the number of recording layers appearing on the second electrode.

### Conclusions

In light of the above amendments and remarks, Applicants respectfully submit that all pending claims are allowable. Therefore, Applicants respectfully request that the Examiner reconsider this application and allow all pending claims. Examiner Jones is encouraged to contact the undersigned by telephone to discuss the above distinctions between the claims and the applied references, if desired, or informalities in the claims, if any.

All of the claims remaining in the application are now clearly allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.


The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Application No. 10/511,623  
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All of the claims remaining in the application are now clearly allowable.  
Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,

SEED Intellectual Property Law Group PLLC

A handwritten signature in black ink, appearing to read "David V. Carlson", written over a horizontal line.

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